

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GLENN F. SPAULDING

Application No. 09/550,276

MAILED

MAR - 7 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on August 2, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

An Order Returning Undocketed Appeal to the Examiner was mailed on November 17, 2005 for the examiner:

- (1) to hold the Appeal Brief filed on March 17, 2005 defective;
- (2) to notify appellant to file a supplemental Appeal Brief in compliance with 37 CFR § 41.37;
- (3) to consider the supplemental Appeal Brief, vacate the Examiner's Answer

mailed June 3, 2005, and issue a revised Examiner's Answer in accordance with the rules effective September 13, 2004;

- (4) to have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record; and
- (5) to include the proper listing of the Izumi patent in the Supplemental Examiner's Answer under the "References of Record" section.

The examiner filed a communication on December 1, 2005, which appears to be a duplicate of the communication mailed July 19, 2005, stating that "[t]he reply brief filed 7/5/2005 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on this appeal." There is no indication in the record that items (1) - (5) listed above have been responded to.

Accordingly, it is

ORDERED that the application is returned to the examiner to:

- (1) hold the Appeal Brief filed on March 17, 2005 defective;
- (2) to notify appellant to file a supplemental Appeal Brief in compliance with 37 CFR § 41.37;
- (3) for the examiner to consider the supplemental Appeal Brief, vacate the Examiner's Answer mailed June 3, 2005, and issue a revised Examiner's Answer in accordance with the rules effective September 13, 2004;
- (4) have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record;

(5) include the proper listing of the Izumi patent in the Supplemental Examiner's Answer under the "References of Record" section; and

(6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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